

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD H. WARREN,

Plaintiff,

V.

STATE OF WASHINGTON,
DEPARTMENT OF CORRECTIONS,
STAFFORD CREEK CORRECTIONS
CENTER, ERIC JACKSON, DAN
VAN OGLE, PAT GLEBE, CUS
SHANAHAN, WILLIAM COPLAND,
and ABRAM CLARK

Defendants.

No. C11-5686 BHS/KLS

ORDER DENYING “OBJECTIONS” TO DISCOVERY

Before the Court is Plaintiff's Motion to Compel. ECF No. 43. Plaintiff moves the Court

to compel Defendants to produce “complete and entire discovery responses.” *Id.* The Court took no action on two previous documents filed by Plaintiff (ECF Nos. 39 and 40), in which he made similar requests, because he failed to first meet and confer with Defendants’ counsel prior to filing a proper motion to compel. See ECF No. 41. Included in this motion to compel is a certification, in which Plaintiff swears under penalty of perjury that “as of April 29, 2012”, counsel for Defendants had not responded to his attempts to confer. ECF No. 43-1, at 1.

According to counsel for Defendants, Defendants received Plaintiff's discovery request titled "Revised Submitted Request for Deposition, Interrogatories, Admission, Production, Inspection, Reviewing" on February 9, 2012. ECF No. 47, Exhibit 1 (Declaration of Ohad M.

ORDER- 1

1 Lowy), ¶ 3. On March 7, 2012, Defendants served Plaintiff with their objections and responses
2 to this request and provided to Plaintiff 72 pages of responsive documents. *Id.* ¶ 4. On April 23,
3 Defendants' counsel received from Plaintiff a request to meet and confer regarding
4 discovery responses. *Id.*, ¶ 5. On April 24, 2012, Defendants' counsel contacted the institution
5 where Plaintiff was located to set up the telephonic conference. *Id.*, ¶ 6. On April 25, 2012, the
6 institution contacted Defendants' counsel confirming the telephonic conference would be held on
7 April 30, 2012. *Id.* On April 30, 2012, within 5 business days of receiving Plaintiff's letter, the
8 parties participated in a telephonic conference to discuss discovery. During the call, Plaintiff
9 informed Defendants' counsel that he had already mailed his motion to compel to the court prior
10 to conferring with counsel in good faith. *Id.*, Exhibit 1, ¶ 6. Defendants' counsel received the
11 instant motion on May 2, 2012.

12 While a party may apply to the court for an order compelling discovery "upon reasonable
13 notice to other parties and all persons affected thereby," the motion must also include a
14 certification that the movant has in good faith conferred or attempted to confer with the person or
15 party failing to make the discovery in an effort to secure the information or material without
16 court intervention." Fed. R. Civ. P. 37(a)(2)(B). In addition, "[a] good faith effort to confer with
17 a party or person not making a disclosure or discovery requires a face-to-face meeting or a
18 telephonic conference." Local Rule CR 37(a)(2)(A).

19 The Court anticipates that the parties will confer and make a good faith effort to resolve
20 any discovery disputes without Court interference. Based on the record before it, the Court finds
21 that Plaintiff has not made a good faith effort to confer with Defendants' counsel prior to
22 bringing this motion. The record reflects that Defendants' counsel set up the telephonic
23 conference immediately after receiving Plaintiff's letter and that the conference occurred within
24

1 a week after Plaintiff's letter. Plaintiff filed his motion to compel before the conference could
2 occur.

3 Accordingly, it is **ORDERED**:

4 (1) Plaintiff's motion to compel (ECF No. 43) is **DENIED**.

5 (2) The Clerk of the Court shall send a copy of this Order to Plaintiff and to counsel
6 for Defendants.

7
8 **DATED** this 13th day of June, 2012.

9
10 
11 Karen L. Strombom

12
13 United States Magistrate Judge